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**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600**

**DECISION
ON PETITION**

Wagner Murabito & Hao LLP
Two North Market Street Third Floor
San Jose CA 95113

In re Application of:
LUNA, AMELIA C., et al.
Application Serial No.: 09/707,521
Filed: November 6, 2000
For: **IMPLEMENTATION OF A DV VIDEO
DECODER WITH A VLIW PROCESSOR AND A
VARIABLE LENGTH DECODING UNIT**

This is a decision on the petition to withdraw the final action as premature, filed September 14, 2005, pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed November 2, 2004 final and requests withdrawal of finality of the Office action.

A non-final Office action was mailed on November 10, 2003. Applicant filed an amendment to the claims on April 5, 2004 substantially amending several claims including all independent claims. On June 15, 2004 the Examiner made a final Office action. In a telephonic interview held on September 14, 2004 the examiner agreed to withdraw the final Office action of June 15, 2004 as premature. On November 2, 2004 the examiner again made a final Office action citing a new grounds of rejection necessitated by amendment.

Petitioner argues that the new final Office action mailed November 2, 2004 was also premature. Petitioner contends that the response mailed February 10, 2005 (received February 15, 2005) should have been entered as a matter of right since the final Office action mailed June 15, 2004 was withdrawn. It is noted that the response received February 15, 2005 was entered. The amendment necessitating the new grounds of rejection was filed April 5, 2004. In effect the response of February 15, 2005 was supplemental to the amendment of April 5, 2004 since the intervening final Office action of June 15, 2004 was withdrawn. It is further argued that the examiner never stated that the new grounds of rejection were necessitated by the amendment in the response of April 5, 2004. A review of the record indicates that this is the only amendment to the claims. Therefore, the April 5, 2004 amendment necessitated the new grounds.

The petition fails to show that applicant's amendment received April 5, 2004 did not necessitate the new grounds set forth by the examiner.

Accordingly, the petition to withdraw finality is **DENIED**. The application remains in an abandoned status.

Any request for reconsideration must be filed within two months from the date of this decision. Petitioner may wish to consider filing a petition to revive an unintentionally abandoned application in accordance with 37 CFR § 1.137(b).

Andrew Faile, Director
Technology Center 2600
Communications